

103D CONGRESS  
1ST SESSION

# H. R. 1627

To amend the Federal Insecticide, Fungicide, and Rodenticide Act and the Federal Food, Drug, and Cosmetic Act, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 1, 1993

Mr. LEHMAN (for himself, Mr. BLILEY, Mr. ROWLAND, Mr. SMITH of Oregon, Mr. ROBERTS, Mr. PENNY, Mr. ENGLISH of Oklahoma, Mr. HOLDEN, Mr. EMERSON, Mr. KINGSTON, Mr. SARPALIUS, Mr. EWING, Mr. DOOLEY, Mr. JOHNSON of South Dakota, Mr. BARRETT of Nebraska, Mr. BOEHNER, Mr. COMBEST, Mr. DOOLITTLE, Mr. CONDIT, Mr. BISHOP, Mr. GUNDERSON, Mr. POMEROY, Mr. ALLARD, Mr. TOWNS, Mr. COOPER, Mr. HALL of Texas, Mr. McMILLAN, Mr. HASTERT, Mr. UPTON, Mr. PAXON, Mr. KLUG, Mr. FRANKS of Connecticut, Mr. MANTON, Mr. BOUCHER, Mr. CRAPO, Mr. BARTON of Texas, Mr. GILLMOR, Mr. OXLEY, Mr. TAUZIN, and Mr. MOOREHEAD) introduced the following bill; which was referred jointly to the Committees on Agriculture and Energy and Commerce

AUGUST 18, 1993

Additional sponsors: Mr. JOHNSON of Georgia, Mr. PARKER, Mr. DARDEN, Mr. LIPINSKI, Mr. STUMP, Mr. HANCOCK, Mr. BEREUTER, Mr. WALSH, Mr. DORNAN, Mr. BATEMAN, Mr. HUGHES, Mr. SMITH of Michigan, Mr. HERGER, Mr. BAKER of Louisiana, Mr. PAYNE of Virginia, Mr. INHOFE, Mr. COBLE, Mr. SUNDQUIST, Mr. RAVENEL, Mr. POMBO, Mr. SISISKY, Mr. WISE, Mr. LAROCO, Mr. CAMP, Mr. CANADY, Mr. WALKER, Mr. ROTH, Mr. HOUGHTON, Mr. COLEMAN, Mr. STEARNS, Mr. THOMAS of Wyoming, Mr. HEFNER, Mr. MCCRERY, Ms. DANNER, Mr. GOODLING, Mr. MCDADE, Mr. VALENTINE, Mr. BURTON of Indiana, Mr. DREIER, Mr. LEWIS of Florida, Mr. CLYBURN, Mr. GEKAS, Mr. DEAL, Mr. KANJORSKI, Mr. GINGRICH, Mr. SHUSTER, Mr. GRAMS, Mr. TAYLOR of North Carolina, Mr. TRAFICANT, Mr. SCHAEFER, Mr. GALLEGLY, Mr. HUTCHINSON, Mr. ANDREWS of New Jersey, Mr. PETERSON of Minnesota, Ms. DUNN, Mr. GALLO, Mr. BALLENGER, Mr. ZELIFF, Mr. GOODLATTE, Mr. BAKER of California, Mr. ARMEY, Mr. BREWSTER, Mr. PETERSON of Florida, Mr. HANSEN, Mrs. LLOYD, Mr. SOLOMON, Mr. NEAL of North Carolina, Mr. BONILLA, Mr. GONZALEZ, Mr. GUTIERREZ, Mr. COLLINS

of Georgia, Mr. DUNCAN, Mr. COX, Mr. LIGHTFOOT, Ms. KAPTUR, Mr. YOUNG of Alaska, Mr. GILCHREST, and Mr. FAZIO

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## **A BILL**

To amend the Federal Insecticide, Fungicide, and Rodenticide Act and the Federal Food, Drug, and Cosmetic Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

### 3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Food Quality Protec-  
5 tion Act of 1993”.

## 6 **TITLE I—CANCELLATION AND** 7 **SUSPENSION**

### 8 **SEC. 101. REFERENCE.**

9 Whenever in this title an amendment or repeal is ex-  
10 pressed in terms of an amendment to, or repeal of, a sec-  
11 tion or other provision, the reference shall be considered  
12 to be made to a section or other provision of the Federal  
13 Insecticide, Fungicide, and Rodenticide Act.

### 14 **SEC. 102. CANCELLATION.**

15 Section 6(b) (7 U.S.C. 136d(b)) is amended to read  
16 as follows:

1 “(b) CANCELLATION AND CHANGE IN CLASSIFICA-  
2 TION OR OTHER TERMS OR CONDITIONS OF REGISTRA-  
3 TION.—

4 “(1) AUTHORITY.—Notwithstanding any other  
5 provision of this Act, the Administrator may, by use  
6 of informal rulemaking under this subsection, pre-  
7 scribe requirements regarding the composition, pack-  
8 aging, and labeling of a pesticide (or a group of pes-  
9 ticides containing a common active or inert ingredi-  
10 ent), or may classify any such pesticide, or may pro-  
11 hibit the registration or continued registration of  
12 any such pesticide for some or all purposes, to the  
13 extent necessary to assure that the pesticide, when  
14 used in accordance with widespread and commonly  
15 recognized practice, does not generally cause unrea-  
16 sonable adverse effects on the environment.

17 “(2) BASIS FOR RULE.—

18 “(A) The Administrator may not initiate a  
19 rulemaking under this subsection unless the  
20 rulemaking is based on a validated test or other  
21 significant evidence raising prudent concerns of  
22 unreasonable adverse effects to man or to the  
23 environment.

24 “(B)(i) The Administrator shall submit to  
25 a scientific peer review committee established

1 by the Administrator the validated test or other  
2 significant evidence upon which the Adminis-  
3 trator proposes to base a rulemaking under  
4 paragraph (1).

5 “(ii) The scientific peer review committee  
6 shall provide written recommendations to the  
7 Administrator as to whether the test or evi-  
8 dence reviewed satisfies the criteria under para-  
9 graph (1) for initiating a rulemaking under  
10 paragraph (1).

11 “(iii) The scientific peer review committee  
12 shall consist of employees of or consultants to  
13 the Environmental Protection Agency who have  
14 not been involved in any previous analysis of  
15 the validated test or significant evidence pre-  
16 sented to the committee and who are expert in  
17 the physical or biological disciplines involved in  
18 the proposed rulemaking.

19 “(3) PRENOTICE PROCEDURES.—

20 “(A) The Administrator may not initiate a  
21 rulemaking under paragraph (1) until the Ad-  
22 ministrator has furnished to the registrant of  
23 each affected pesticide a notice that includes a  
24 summary of the validated test or other signifi-  
25 cant evidence upon which the Administrator

1 proposes to base the rulemaking and the basis  
2 for a determination that such test or evidence  
3 raises prudent concerns that the pesticide  
4 causes unreasonable adverse risks to man or to  
5 the environment. A registrant shall have 30  
6 days after receipt of a notice provided under  
7 this subparagraph to respond to such notice.

8 “(B) At the same time that the Adminis-  
9 trator furnishes notice to registrants of the pes-  
10 ticide under subparagraph (A), the Adminis-  
11 trator shall also furnish such notice to the Sec-  
12 retary of Agriculture and the Secretary of  
13 Health and Human Services. Upon receipt of  
14 such notification, the Secretary of Agriculture,  
15 when an agricultural commodity is affected,  
16 shall prepare an analysis of the benefit and use  
17 data of the pesticide and provide the analysis to  
18 the Administrator.

19 “(4) ADVANCE NOTICE TO PUBLIC.—

20 “(A) The Administrator after receiving the  
21 recommendation of the peer review committee  
22 established under paragraph (2)(B) together  
23 with any comments submitted by the Secretary  
24 of Agriculture, the Secretary of Health and

1 Human Services, and any registrant shall ei-  
2 ther—

3 “(i) issue an advance notice of pro-  
4 posed rulemaking, or

5 “(ii) issue a notice of a proposed deci-  
6 sion not to initiate a rulemaking under  
7 paragraph (1).

8 “(B) The Administrator shall publish such  
9 notice in the Federal Register and provide a pe-  
10 riod of not less than 60 days for comment  
11 thereon. The notice shall contain a statement of  
12 its basis and purpose, which shall include a  
13 summary of—

14 “(i) the factual data on which the no-  
15 tice is based,

16 “(ii) the major scientific assumptions  
17 underlying the notice, and

18 “(iii) a summary of the notice under  
19 paragraph (3) and any significant com-  
20 ments received from any registrant, the  
21 Secretary of Agriculture, and the Secretary  
22 of Health and Human Services.

23 “(C) If the Administrator, after consider-  
24 ing any comments received, decides not to issue  
25 a notice of proposed rulemaking, the Adminis-

1           trator shall publish in the Federal Register a  
2           notice setting forth the decision and its basis.

3           “(5) DOCKET.—For each rulemaking under  
4           paragraph (1), the Administrator shall establish a  
5           docket. The docket shall include a copy of the notice  
6           under paragraph (3), of any notice issued under  
7           paragraph (4), of the notice of proposed rulemaking  
8           under paragraph (6), of each timely comment filed  
9           with the Administrator, of the report of the Sci-  
10          entific Advisory Panel under paragraph (8), of a  
11          record of each hearing held by the Administrator in  
12          connection with the rulemaking, and of the final rule  
13          or decision to withdraw the rule. Information in the  
14          docket shall be made available to the public consist-  
15          ent with the requirements of section 10. No factual  
16          material that has not been entered into the docket  
17          in a timely manner may be relied upon by the Ad-  
18          ministrator in issuing a final rule or in withdrawing  
19          a proposed rule or by any person in a judicial review  
20          proceeding, except for—

21                 “(A) information of which the Adminis-  
22                 trator may properly take official notice, or

23                 “(B) information of which a court may  
24                 properly take judicial notice.

25           “(6) NOTICE OF PROPOSED RULEMAKING.—

1           “(A) Not less than 60 days after an ad-  
2 vance notice of proposed rulemaking, except as  
3 provided in paragraph (14), the Administrator  
4 may issue a notice of proposed rulemaking. The  
5 notice of proposed rulemaking shall include a  
6 statement of its basis and purpose, a request  
7 for any additional data needed, and a bibliog-  
8 raphy of all significant scientific data and stud-  
9 ies on which the proposed rule is based. The  
10 statement of basis and purpose shall include a  
11 summary of—

12                   “(i) the factual data on which the pro-  
13 posed rule is based,

14                   “(ii) the major scientific assumptions,  
15 legal interpretations, and policy consider-  
16 ations underlying the proposed rule,

17                   “(iii) a summary of available risk-ben-  
18 efit information, including benefits and use  
19 information as provided by the Secretary  
20 of Agriculture, and

21                   “(iv) the Administrator’s analysis and  
22 tentative conclusions regarding the bal-  
23 ancing of such risks and benefits.

24           “(B) Registrants of the pesticide and any  
25 person who submits comments on the proposed



1 rule shall make a report to the Administrator of  
2 all scientific data and studies in such person's  
3 possession concerning the risks and benefits of  
4 the pesticide that are the subject of the rule-  
5 making and were not included in the bibliog-  
6 raphy included in the notice required in sub-  
7 paragraph (A). If such person receives addi-  
8 tional scientific data or studies pertinent to the  
9 rulemaking that were not included in such bibli-  
10 ography, the person shall make a report of such  
11 scientific data and studies to the Administrator  
12 promptly after receipt. If the Administrator re-  
13 ceives reports containing additional data con-  
14 cerning risks or benefits, the Administrator  
15 shall revise the bibliography to reflect such data  
16 and make the revised bibliography available to  
17 the public.

18 “(C) The Administrator shall provide a  
19 comment period of not less than 90 days after  
20 the publication of the notice of proposed rule-  
21 making. During such period any person may  
22 submit comments, data, or documentary infor-  
23 mation on the proposed rule. Promptly upon re-  
24 ceipt by the Administrator, all written com-  
25 ments and documentary information on the pro-

1 posed rule received from any person for inclu-  
2 sion in the docket during the comment period,  
3 shall be placed in the docket.

4 “(D) At the same time that the Adminis-  
5 trator publishes notice under subparagraph (A),  
6 the Administrator shall provide the Secretary of  
7 Agriculture and the Secretary of Health and  
8 Human Services with a copy of the proposed  
9 rule. Not later than 90 days after the publica-  
10 tion of the notice of proposed rulemaking, the  
11 Secretary of Agriculture and the Secretary of  
12 Health and Human Services may provide com-  
13 ments on such proposed rule. When an agricul-  
14 tural commodity is affected, the Secretary of  
15 Agriculture shall provide to the Administrator  
16 an analysis of the impact of the proposed action  
17 on the domestic and global availability and  
18 prices of agricultural commodities and retail  
19 food prices and any associated societal impacts  
20 (including consumer nutrition and health and  
21 low-income consumers).

22 “(7) INFORMAL HEARING.—

23 “(A) Any person who has submitted a  
24 comment may, not later than 15 days after the  
25 close of the comment period, request of the Ad-

1            administrator an informal hearing on questions of  
2            fact pertaining to the proposed rule or com-  
3            ments thereon. Upon such request, the Admin-  
4            istrator shall schedule an informal hearing not  
5            to exceed 20 days duration, and to conduct not  
6            later than 60 days after the close of the com-  
7            ment period. The Administrator shall announce  
8            the time, place, and purpose of the hearing in  
9            the Federal Register. The informal hearing  
10          shall be limited to addressing questions of fact  
11          raised by materials in the docket. A transcript  
12          shall be made of any oral presentation, discus-  
13          sion, or debate and included in the docket.

14            “(B) The Administrator shall appoint a  
15            presiding officer who shall have the authority to  
16            administer oaths, regulate the course of the  
17            hearing, conduct prehearing conferences, sched-  
18            ule presentations, and exclude irrelevant, imma-  
19            terial, or unduly repetitious evidence.

20            “(C) The presiding officer shall conduct  
21            the informal hearing in a manner that encour-  
22            ages discussion and debate on questions of fact  
23            regarding the docket. The Administrator shall  
24            designate one or more employees of the Envi-  
25            ronmental Protection Agency to participate in

1 the hearing. Any person who submitted a com-  
2 ment on the proposed rule may participate in  
3 the hearing and shall be entitled to present evi-  
4 dence and argument to support the partici-  
5 pant's position or rebut a contrary position and  
6 may choose to present materials in oral or writ-  
7 ten form.

8 “(8) REVIEW BY SCIENTIFIC ADVISORY  
9 PANEL.—At the time the Administrator issues a no-  
10 tice of proposed rulemaking under paragraph (6),  
11 the Administrator shall provide a copy of such notice  
12 to the Scientific Advisory Panel established under  
13 section 25(d). If any person submits comments  
14 under paragraph (6) in opposition to the proposed  
15 rule, the Administrator shall request the comments,  
16 evaluations, and recommendations of the Panel as to  
17 the impact on health and the environment of the  
18 proposed rule and on any disputed issues of fact or  
19 scientific policy that appear to be of significance in  
20 the rulemaking. The Panel may hold a public hear-  
21 ing to discuss the proposed rule. The Panel shall  
22 provide a report to the Administrator not later than  
23 30 days after the close of comment period (or, if a  
24 hearing has been requested under paragraph (7), not  
25 later than 30 days after the end of such hearing).

1 The Administrator shall allow a reasonable time for  
2 written public comment on the Panel's report. A  
3 copy of the Panel's report and any comments shall  
4 be included in the rulemaking docket.

5 “(9) FINAL ACTION.—After considering all ma-  
6 terial in the docket, the Administrator shall publish  
7 in the Federal Register either a final rule or a with-  
8 drawal of the proposed rule. The Administrator may  
9 not prohibit a use of a pesticide if alternative re-  
10 quirements will assure that the pesticide, when used  
11 in accordance with widespread and commonly recog-  
12 nized practice, will not generally cause unreasonable  
13 adverse effects on the environment. In taking any  
14 final action, the Administrator shall take into ac-  
15 count the impact of the action on production and  
16 prices of agricultural commodities, retail food prices,  
17 and otherwise on agricultural economy. The final  
18 rule or withdrawal of the proposal shall be accom-  
19 panied by a statement that—

20 “(A) explains the reasons for the action;

21 “(B) responds to any comments made by  
22 the Secretary of Agriculture or the Secretary of  
23 Health and Human Services, and responds to  
24 any report of the Scientific Advisory Panel;

1 “(C) responds to each significant comment  
2 contained in the docket; and

3 “(D) in the case of a final rule—

4 “(i) explains the reasons for any  
5 major differences between the final rule  
6 and the proposed rule;

7 “(ii) describes the impact of the final  
8 rule on production and prices of agricul-  
9 tural commodities, retail food prices, and  
10 otherwise on the agricultural economy; and

11 “(iii) explains any significant dis-  
12 agreements the Administrator may have  
13 with the comments, evaluations, or rec-  
14 ommendations contained in the report  
15 under paragraph (8) or the benefits and  
16 use information described in paragraph  
17 (6)(A)(iii) and analysis in paragraph  
18 (6)(D) as it bears on the final rule.

19 A final rule issued under this subsection shall be ef-  
20 fective upon the date of its publication in the Fed-  
21 eral Register.

22 “(10) MODIFICATION OR CANCELLATION.—

23 “(A) A final rule shall state any require-  
24 ments, classifications, or prohibitions imposed  
25 by the rule, and shall state that each affected

1           registrant shall have a 30-day period from the  
2           date of publication of the rule in the Federal  
3           Register to apply for an amendment to the reg-  
4           istration to comply with the rule or to request  
5           voluntary cancellation of the registration. How-  
6           ever, if the rule unconditionally prohibits all  
7           uses of a pesticide, the rule may provide that  
8           cancellation of the registration of the pesticide  
9           is effective upon publication of the rule. The  
10          final rule may prohibit or limit distribution or  
11          sale by the registrant of the affected pesticide  
12          to any other person in any State during such  
13          30-day period.

14               “(B) Notwithstanding any other provision  
15          of this Act, if an application for an amendment  
16          to the registration to make it comply with a  
17          rule issued under subparagraph (A) is not sub-  
18          mitted within such 30-day period, the Adminis-  
19          trator may issue and publish in the Federal  
20          Register an order canceling the registration, ef-  
21          fective upon the date of publication of the  
22          order in the Federal Register.

23               “(11) DENIAL OF APPLICATIONS.—Notwith-  
24          standing any other provision of this Act, no applica-  
25          tion for initial or amended registration of any pes-

1        ticide under section 3 or 24(c) may be approved if  
2        the registration would be inconsistent with a rule in  
3        effect under this subsection.

4            “(12) AMENDMENT OF RULE.—A registrant, or  
5        other interested person with the concurrence of the  
6        registrant, may petition for the amendment or rev-  
7        ocation of a rule that has been issued under this  
8        subsection. The petition shall state the factual mate-  
9        rial and argument that form the basis for the peti-  
10       tion. The Administrator shall publish a notice of the  
11       petition in the Federal Register and allow a 60-day  
12       comment period thereon. Not later than 180 days  
13       after publication of the notice, the Administrator  
14       shall determine whether to deny the petition or to  
15       propose to amend or revoke the rule, and publish the  
16       determination and its basis in the Federal Register.  
17       In making such a determination, the Administrator  
18       shall give due regard to the desirability of finality,  
19       to the opportunity that the petitioner had to present  
20       the factual material and argument in question in the  
21       prior rulemaking proceeding, and to any new evi-  
22       dence submitted by the petitioner. If the Adminis-  
23       trator proposes to amend or revoke the rule, then  
24       the procedures established by paragraph (1) and  
25       paragraphs (6) through (9) apply. A denial of a peti-



1       tion shall be judicially reviewable as provided in  
2       paragraph (13).

3           “(13) JUDICIAL REVIEW.—A decision not to  
4       initiate a rulemaking published under paragraph (4),  
5       a final rule or a withdrawal of a proposed rule pub-  
6       lished under paragraph (9) or a denial of a petition  
7       under paragraph (12) shall be judicially reviewable  
8       in the manner specified by section 16(b)(2).

9           “(14) EXCEPTION TO REQUIREMENTS.—If the  
10      Administrator finds it necessary to issue a suspen-  
11      sion order under subsection (c), the Administrator  
12      may waive the requirements of paragraphs (3) and  
13      (4) of this subsection.”.

14   **SEC. 103. PESTICIDES IN REVIEW.**

15      If the Administrator, on or before January 1, 1993,  
16   has published a document instituting a special review pro-  
17   ceeding or public interim administrative review proceeding  
18   with respect to a particular pesticide or active ingredient  
19   thereof, the Administrator may, in lieu of proceeding  
20   under section 6(b) of the Federal Insecticide, Fungicide,  
21   and Rodenticide Act as amended by the Food Quality Pro-  
22   tection Act of 1993, elect to continue such review proceed-  
23   ing and, upon its completion, take action as warranted in  
24   accordance with sections 3(c)(6), 6(b), and 6(d) as those

1 sections were in effect on the day before the date of enact-  
2 ment of the Food Quality Protection Act of 1993.

3 **SEC. 104. SUSPENSION.**

4 (a) SECTION 6(c)(1).—The second sentence of sec-  
5 tion 6(c)(1) (7 U.S.C. 136d(c)(1)) is revised to read: “Ex-  
6 cept as provided in paragraph (3), no order of suspension  
7 may be issued under this subsection unless the Adminis-  
8 trator has issued, or at the same time issues, a proposed  
9 rule under subsection (b).”.

10 (b) SECTION 6(c)(3).—Section 6(c)(3) (7 U.S.C.  
11 136d(c)(1)) is amended by inserting after the first sen-  
12 tence the following new sentence: “The Administrator may  
13 issue an emergency order under this paragraph before is-  
14 suing a proposed rule under subsection (b), provided that  
15 the Administrator shall proceed expeditiously to issue a  
16 proposed rule.”.

17 **SEC. 105. TOLERANCE REEVALUATION AS PART OF**  
18 **REREGISTRATION.**

19 Section 4(g) (7 U.S.C. 136b(g)) is amended in para-  
20 graph (2) by adding at the end the following:

21 “(E) As soon as the Administrator has  
22 sufficient information with respect to the die-  
23 tary risk of a particular active ingredient, but  
24 in any event no later than the time the Admin-  
25 istrator makes a determination under subpara-

graph (C) or (D) with respect to pesticides containing a particular active ingredient, the Administrator shall—

“(i) reassess each associated tolerance and exemption from the requirement for a tolerance issued under section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a),

“(ii) determine whether such tolerance or exemption meets the requirements of that Act,

“(iii) determine whether additional tolerances or exemptions should be issued,

“(iv) publish in the Federal Register a notice setting forth the determinations made under this subparagraph, and

“(v) commence promptly such proceedings under this Act and section 408 of the Federal Food, Drug, and Cosmetic Act as are warranted by such determinations.”.

**SEC. 106. SCIENTIFIC ADVISORY PANEL.**

The first sentence of section 25(d) (7 U.S.C. 136w(d)) is amended by striking out “The Administrator shall” and inserting in lieu thereof “(1) IN GENERAL.—

1 The Administrator shall” and such section is amended by  
2 adding at the end the following:

3 “(2) SCIENCE REVIEW BOARD.—There is estab-  
4 lished a Science Review Board to consist of 60 sci-  
5 entists who shall be available to the Scientific Advi-  
6 sory Panel to assist in reviews conducted by the  
7 Panel. The Scientific Advisory Panel shall select the  
8 scientists from 60 nominations submitted each by  
9 the National Science Foundation and the National  
10 Institutes of Health. Members of the Board shall be  
11 compensated in the same manner as members of the  
12 Panel.”.

13 **SEC. 107. CONFORMING AMENDMENTS.**

14 (a) SECTION 3(c)(6).—Section 3(c)(6) (7 U.S.C.  
15 136a(c)(6)) is amended to read as follows:

16 “(6) DENIAL OF APPLICATION FOR REGISTRA-  
17 TION.—

18 “(A) Except as provided in subparagraph  
19 (B), if the Administrator proposes to deny an  
20 application for registration because it does not  
21 satisfy the requirements of paragraph (5), the  
22 Administrator shall notify the applicant of the  
23 proposal and the reasons (including the factual  
24 basis thereof). Unless the applicant makes the  
25 necessary corrections to the application and no-

1           tifies the Administrator thereof during the 30-  
2           day period beginning with the day after the  
3           date the applicant receives the notice, or during  
4           that time the applicant submits a request for a  
5           hearing, the Administrator may issue an order  
6           denying the application. If during that time the  
7           Administrator does not receive such corrections  
8           to the application or such a request for hearing,  
9           the Administrator may issue an order denying  
10          the application. Such an order shall be pub-  
11          lished in the Federal Register and shall not be  
12          subject to judicial review. If during that time  
13          the Administrator receives a request for a hear-  
14          ing, a hearing shall be conducted under section  
15          6(d) of the Act. If such a hearing is held, a de-  
16          cision after completion of such hearing shall be  
17          final and shall be subject to judicial review  
18          under section 16(b)(1) of this Act.

19               “(B) The Administrator may deny an ap-  
20          plication for registration because it does not  
21          comply with the requirements of a rule issued  
22          under section 6(b) of this Act. The Adminis-  
23          trator shall notify the applicant of such denial.  
24          Such notice shall explain why the application  
25          does not comply with such requirements and

1           shall state that the applicant may petition to  
2           amend or revoke such rule under section  
3           6(b)(12) of this Act.”.

4           (b) SECTION 3(c)(8).—Section 3(c)(8) (7 U.S.C.  
5 136a(c)(8)) is repealed.

6           (c) SECTION 3(d).—Section 3(d) (7 U.S.C. 136a(dd))  
7 is amended—

8           (1) in paragraph (1)(A), by striking out “on the  
9           initial classification and registered pesticides” and  
10          inserting in lieu thereof “under section 6(b) of this  
11          Act. Registered pesticides”; and

12          (2) in paragraph (2), by striking out all that  
13          follows “on the environment,” and inserting in lieu  
14          thereof “the Administrator may initiate a proceeding  
15          under section 6(b) of the Act.”.

16          (d) SECTION 4(e).—Section 4(e)(3)(B)(iii)(III) (7  
17 U.S.C. 136b(e)(3)(B)(iii)(III)) is amended—

18          (1) by striking out “section 6(d), except that  
19          the” and inserting in lieu thereof “section 6(d).  
20          The”; and

21          (2) by inserting after “guidelines.” the follow-  
22          ing: “If a hearing is held, a decision after completion  
23          of such hearing shall be final.”;

1       (e) SECTION 6(c).—Section 6(c) (7 U.S.C. 136d(c))  
2 is amended in paragraph (4) by striking out “section 16”  
3 and inserting in lieu thereof “section 16(b)(1)”.

4       (f) SECTION 6(d).—Section 6(d) (7 U.S.C. 136d(d))  
5 is amended—

6           (1) by revising the first sentence to read as fol-  
7 lows: “If a hearing is requested pursuant to section  
8 3(c)(2)(B)(iv), 3(c)(6), 4(e)(3)(B)(iii)(III), 6(c)(2),  
9 or 6(e)(2), such hearing shall be held for the pur-  
10 pose of receiving evidence relevant and material to  
11 the issues raised by the request for hearing.”; and

12           (2) by striking all that follows the eighth sen-  
13 tence and inserting the following: “A hearing under  
14 this subsection shall be held in accordance with the  
15 provisions of sections 554, 556, and 557 of title 5,  
16 United States Code. As soon as practicable after the  
17 completion of the hearing, the Administration shall  
18 issue a final order setting forth the Administrator’s  
19 decision. Such order and decision shall be based only  
20 on substantial evidence of record of such hearing,  
21 shall set forth detailed findings of fact upon which  
22 the order is based, and shall be subject to judicial  
23 review under section 16(b)(1).”.

1       (g) SECTION 16(a).—Section 16(a) (7 U.S.C.  
2 136n(a)) is amended by inserting “or a proceeding under  
3 section 6(b)” after “a hearing”.

4       (h) SECTION 16(b).—Section 16(b) (17 U.S.C.  
5 136n(b)) is amended—

6           (1) by striking out “(b) REVIEW BY COURT OF  
7 APPEALS.—In the case of” and inserting in lieu  
8 thereof the following:

9       “(b) REVIEW BY COURT OF APPEALS.—

10           “(1) REVIEW OF CERTAIN ORDERS.—In the  
11 case of”;

12           (2) by striking “under this section” in the sixth  
13 sentence of paragraph (1) (as so designated) and in-  
14 serting “under this paragraph”; and

15           (3) by adding at the end the following new  
16 paragraph:

17           “(2) REVIEW OF CERTAIN RULES.—In the case  
18 of actual controversy as to the validity of any rule  
19 issued by the Administrator under section 6(b)(9),  
20 any decision by the Administrator under section  
21 6(b)(4) or 6(b)(9) not to issue a proposed rule or to  
22 withdraw a proposed rule, or any denial of a petition  
23 to revoke or amend a final rule under section  
24 6(b)(12), any person who will be adversely affected  
25 by such rule or decision and who has filed comments



1 in the proceeding leading to the rule or decision may  
2 obtain judicial review by filing a petition in the Unit-  
3 ed States court of appeals for the circuit wherein  
4 such person resides or has a place of business, with-  
5 in 60 days after the entry of such order. A copy of  
6 the petition shall be forthwith transmitted to the Ad-  
7 ministrator or any officer designated by the Admin-  
8 istrator for that purpose, and thereupon the Admin-  
9 istrator shall file in court the record of the proceed-  
10 ings on which the Administrator based such rule or  
11 decision, as provided in section 2112 of title 28,  
12 United States Code. Upon the filing of such petition  
13 the court shall have exclusive jurisdiction to affirm  
14 or set aside such rule or decision in whole or in part.  
15 The standard review shall be that set forth in sec-  
16 tion 706 of title 5, United States Code. The judg-  
17 ment of the court under this paragraph shall be  
18 final, subject to review by the Supreme Court upon  
19 certiorari or certification as provided in section 1254  
20 of title 28 of the United States Code. The com-  
21 mencement of proceedings under this section shall  
22 not, unless specifically ordered by the court to the  
23 contrary, operate as a stay of an order.”.

1 (i) SECTION 25(a).—Section 25(a) (7 U.S.C.  
2 136w(a)) is amended by adding a new paragraph (5) at  
3 the end, to read as follows:

4 “(5) EXCEPTION.—The requirements of this  
5 subsection shall not apply to any rule or rulemaking  
6 proceeding under section 6(b).”.

7 (j) SECTION 25(d).—Section 25(d) (7 U.S.C.  
8 136w(d)) is amended—

9 (1) in the first sentence by striking out “in no-  
10 tices of intent issued under subsection 6(b) and”;  
11 and

12 (2) in the second sentence by striking out “no-  
13 tices of intent and” and by striking out “section  
14 6(b) or”.

15 (k) SECTION 25(e).—Section 25(e) (7 U.S.C.  
16 136w(e)) is amended by striking out the period at the end  
17 of the second sentence and substituting “, except for any  
18 action that may be taken under section 6(b).”.

## 19 **TITLE II—DATA COLLECTION**

### 20 **SEC. 201. COLLECTION OF PESTICIDE USE INFORMATION.**

21 The Secretary of Agriculture shall collect data of  
22 Statewide or regional significance on the use of pesticides  
23 to control pests and diseases of major crops and crops of  
24 dietary significance, including fruits and vegetables. Such  
25 data shall be collected by surveys of farmers or from other

1 sources offering statistically reliable data. The Secretary  
2 shall, as appropriate, coordinate with the Administrator  
3 of the Environmental Protection Agency in the design of  
4 such surveys and make available to the Administrator the  
5 aggregate results of such surveys to assist the Adminis-  
6 trator in developing exposure calculations and benefits de-  
7 terminations with respect to pesticide regulatory decisions.

8 **SEC. 202. INTEGRATED PEST MANAGEMENT.**

9 Section 28(c) of the Federal Insecticide, Fungicide,  
10 and Rodenticide Act (7 U.S.C. 136w-3(c)) is amended—

11 (1) by designating the text of such section as  
12 paragraph (1) with the margin indented one em, and

13 (2) by adding at the end the following:

14 “(2) The Administrator and the Secretary of Agri-  
15 culture shall research, develop, and disseminate integrated  
16 pest management techniques and other pest control meth-  
17 ods that enable producers to reduce or eliminate applica-  
18 tions of pesticides which pose a greater than negligible die-  
19 tary risk to humans, with a special focus on crops critical  
20 to a balanced, healthy diet and which are considered as  
21 minor crops in terms of acreage produced.”.

1 **TITLE III—AMENDMENTS TO THE FED-**  
2 **ERAL FOOD, DRUG, AND COSMETIC**  
3 **ACT**

4 **SEC. 301. REFERENCE.**

5 Whenever in this title an amendment is expressed in  
6 terms of an amendment to a section or other provision,  
7 or refers to a section or other provision, the reference shall  
8 be considered to be made to a section or other provision  
9 of the Federal Food, Drug, and Cosmetic Act.

10 **SEC. 302. DEFINITIONS.**

11 (a) Section 201(q) (21 U.S.C. 321(q)) is amended to  
12 read as follows:

13 “(q)(1) The term ‘pesticide chemical’ means—

14 “(A) any substance that is a pesticide within  
15 the meaning of the Federal Insecticide, Fungicide,  
16 and Rodenticide Act, or

17 “(B) any active or inert ingredient of a pes-  
18 ticide within the meaning of the Federal Insecticide,  
19 Fungicide, and Rodenticide Act.

20 “(2) The term ‘pesticide chemical residue’ means a  
21 residue in or on raw agricultural commodity or processed  
22 food of—

23 “(A) a pesticide chemical, or

24 “(B) any other added substance that is present  
25 in the commodity or food primarily as a result of the

1 metabolism or other degradation of a pesticide  
2 chemical.

3 “(3) Notwithstanding paragraphs (1) and (2), the  
4 Administrator may by regulation except a substance from  
5 the definition of ‘pesticide chemical’ or ‘pesticide chemical  
6 residue’ if—

7 “(A) its occurrence as a residue on a raw agri-  
8 cultural commodity or processed food is attributable  
9 primarily to natural causes or to human activities  
10 not involving the use of any substances for a pes-  
11 ticial purpose in the production, storage, process-  
12 ing, or transportation of any raw agricultural com-  
13 modity or processed food, and

14 “(B) the Administrator, after consultation with  
15 the Secretary, determines that the substance more  
16 appropriately should be regulated under one or more  
17 provisions of this Act other than sections  
18 402(a)(2)(B) and 408.”.

19 (b) Paragraphs (1) and (2) of section 201(s) (21  
20 U.S.C. 321(s)) are amended to read as follows:

21 “(1) a pesticide chemical residue in or on a raw  
22 agricultural commodity or processed food; or

23 “(2) a pesticide chemical; or”.

24 (c) Section 201 (21 U.S.C. 321) is amended by add-  
25 ing at the end the following:

1       “(bb) The term ‘processed food’ means any food  
2 other than a raw agricultural commodity and includes any  
3 raw agricultural commodity that has been subject to proc-  
4 essing, such as canning, cooking, freezing, dehydration, or  
5 milling.

6       “(cc) The term ‘Administrator’ means the Adminis-  
7 trator of the United States Environmental Protection  
8 Agency.”.

9       **SEC. 303. PROHIBITED ACTS.**

10       Section 301(j) (21 U.S.C. 331(j)) is amended—

11               (1) by striking the period at the end; and

12               (2) by adding at the end “, or the violation of  
13 section 408(g)(2) or any regulation issued under  
14 that section.”.

15       **SEC. 304. ADULTERATED FOOD.**

16       Section 402(a)(2) (21 U.S.C. 342(a)(2)) is amended  
17 to read as follows:

18               “(2)(A) if it bears or contains any added poi-  
19 sonous or added deleterious substance (other than a  
20 substance that is a pesticide chemical residue in or  
21 on a raw agricultural commodity or processed food,  
22 a food additive, a color additive, or a new animal  
23 drug) that is unsafe within the meaning of section  
24 406;

1           “(B) if it bears or contains a pesticide chemical  
2       residue that is unsafe within the meaning of section  
3       408(a); or

4           “(C) if it is or if it bears or contains—

5               “(i) any food additive that is unsafe within  
6       the meaning of section 409, or

7               “(ii) a new animal drug (or conversion  
8       product thereof) that is unsafe within the  
9       meaning of section 512; or”.

10 **SEC. 305. TOLERANCES AND EXEMPTIONS FOR PESTICIDE**  
11 **CHEMICAL RESIDUES.**

12       Section 408 (21 U.S.C. 346a) is amended to read as  
13 follows:

14       “TOLERANCES AND EXEMPTIONS FOR PESTICIDE  
15                       CHEMICAL RESIDUES

16       “SEC. 408. (a) REQUIREMENT FOR TOLERANCE OR  
17 EXEMPTION.—

18           “(1) GENERAL RULE.—For the purposes of this  
19       section, the term ‘food,’ when used as a noun with-  
20       out modification, shall mean a raw agricultural com-  
21       modity or processed food. Except as provided in  
22       paragraph (2) or (3), any pesticide chemical residue  
23       in or on a food shall be deemed unsafe for the pur-  
24       pose of section 402(a)(2)(B) unless—

25               “(A) a tolerance for such pesticide chemi-  
26       cal residue in or on such food is in effect under

1           this section and the concentration of the residue  
2           is within the limits of the tolerance, or

3           “(B) an exemption from the requirement  
4           of a tolerance is in effect under this section for  
5           the pesticide chemical residue.

6           “(2) PROCESSED FOOD.—Notwithstanding  
7           paragraph (1)—

8           “(A) if a tolerance is in effect under this  
9           section for a pesticide chemical residue in or on  
10          a raw agricultural commodity, a pesticide chem-  
11          ical residue that is present in or on a processed  
12          food because the food is made from that raw  
13          agricultural commodity shall not be considered  
14          unsafe within the meaning of section  
15          402(a)(2)(B) despite the lack of a tolerance for  
16          the pesticide chemical residue in or on the proc-  
17          essed food if the concentration of the pesticide  
18          chemical residue in the processed food when  
19          ready for consumption or use is not greater  
20          than the tolerance prescribed for the pesticide  
21          chemical residue in the raw agricultural com-  
22          modity.

23          “(B) If an exemption from the requirement  
24          for a tolerance is in effect under this section for  
25          a pesticide chemical residue in or on a raw agri-



1 cultural commodity, a pesticide chemical residue  
2 that is present in or on a processed food be-  
3 cause the food is made from that raw agricul-  
4 tural commodity shall not be considered unsafe  
5 within the meaning of section 402(a)(2)(B).

6 “(3) RESIDUES OF DEGRADATION PRODUCTS.—

7 If a pesticide chemical residue is present in or on a  
8 food because it is a metabolite or other degradation  
9 product of a precursor substance that itself is a pes-  
10 ticide chemical or pesticide chemical residue, such a  
11 residue shall not be considered to be unsafe within  
12 the meaning of section 402(a)(2)(B) despite the lack  
13 of a tolerance or exemption from the need for a tol-  
14 erance for such residue in or on such food if—

15 “(A) the Administrator has not determined  
16 that the degradation product is likely to pose  
17 any potential health risk from dietary exposure  
18 that is of a different type than, or of a greater  
19 significance than, any risk posed by dietary ex-  
20 posure to the precursor substance, and

21 “(B) either—

22 “(i) a tolerance is in effect under this  
23 section for residues of the precursor sub-  
24 stance in or on the food, and the combined  
25 level of residues of the degradation product

1           and the precursor substance in or on the  
2           food is at or below the stoichiometrically  
3           equivalent level that would be permitted by  
4           the tolerance if the residue consisted only  
5           of the precursor substance rather than the  
6           degradation product, or

7           “(ii) an exemption from the need for  
8           a tolerance is in effect under this section  
9           for residues of the precursor substance in  
10          or on the food, and

11          “(C) the tolerance or exemption for resi-  
12          dues of the precursor substance does not state  
13          that it applies only to particular named sub-  
14          stances or states that it does not apply to resi-  
15          dues of the degradation product.

16          “(4) EFFECT OF TOLERANCE OR EXEMP-  
17          TION.—While a tolerance or exemption from the re-  
18          quirement for a tolerance is in effect under this sec-  
19          tion for a pesticide chemical residue with respect to  
20          any food, the food shall not by reason of bearing or  
21          containing any amount of such a residue be consid-  
22          ered to be adulterated within the meaning of section  
23          402(a)(1).

24          “(b) AUTHORITY AND STANDARD FOR TOLER-  
25          ANCES.—

1           “(1) AUTHORITY.—The Administrator may  
2           issue regulations establishing, modifying, or revoking  
3           a tolerance for a pesticide chemical residue in or on  
4           a food—

5                   “(A) in response to a petition filed under  
6                   subsection (d), or

7                   “(B) on the Administrator’s initiative  
8                   under subsection (e).

9           “(2) STANDARD.—(A) A tolerance may not be  
10           established for a pesticide chemical residue in or on  
11           a food at a level that is higher than a level that the  
12           Administrator determines is adequate to protect the  
13           public health.

14                   “(B) The Administrator shall modify or revoke  
15                   a tolerance if it is at a level higher than the level  
16                   that the Administrator determines is adequate to  
17                   protect the public health.

18                   “(C) In making a determination under this  
19                   paragraph the Administrator shall take into account,  
20                   among other relevant factors, the validity, complete-  
21                   ness, and reliability of the available data from stud-  
22                   ies of the pesticide chemical residue, the nature of  
23                   any toxic effects shown to be caused by the pesticide  
24                   chemical in such studies, available information and  
25                   reasonable assumptions concerning the relationship

1 of the results of such studies to human risk, avail-  
2 able information and reasonable assumptions con-  
3 cerning the dietary exposure levels of food consum-  
4 ers (and major identifiable subgroups of food con-  
5 sumers) to the pesticide chemical residue, and avail-  
6 able information and reasonable assumptions con-  
7 cerning the variability of the sensitivities of major  
8 identifiable groups and shall consider other factors  
9 to the extent required by subparagraph (F).

10 “(D) For purposes of subparagraph (A), a tol-  
11 erance level for a pesticide chemical residue in or on  
12 a food shall be deemed to be adequate to protect the  
13 public health if the dietary risk posed to food con-  
14 sumers by such level of the pesticide chemical resi-  
15 due is negligible. The Administrator shall by regula-  
16 tion set forth the factors and methods for determin-  
17 ing whether such a risk is negligible.

18 “(E) Where reliable data are available, the Ad-  
19 ministrator shall calculate the dietary risk posed to  
20 food consumers by a pesticide chemical on the basis  
21 of the percent of food actually treated with the pes-  
22 ticide chemical and the actual residue levels of the  
23 pesticide chemical that occur in food. In particular,  
24 the Administrator shall take into account aggregate

1 pesticide use and residue data collected by the De-  
2 partment of Agriculture.

3 “(F) For purposes of subparagraph (A), a level  
4 of a pesticide chemical residue in or on a food that  
5 poses a greater than negligible dietary risk to con-  
6 sumers of the food shall be deemed to be adequate  
7 to protect the public health if the Administrator de-  
8 termines that such risk is not unreasonable be-  
9 cause—

10 “(i) use of the pesticide that produces the  
11 residue protects humans or the environment  
12 from adverse effects on public health or welfare  
13 that would, directly or indirectly, result in  
14 greater risk to the public or the environment  
15 than the dietary risk from the pesticide chemi-  
16 cal residue; or

17 “(ii) use of the pesticide avoids risks to  
18 workers, the public, or the environment that  
19 would be expected to result from the use of an-  
20 other pesticide or pest control method on the  
21 same food and that are greater than the risks  
22 that result from dietary exposure to the pes-  
23 ticide chemical residue; or

24 “(iii) the unavailability of the pesticide  
25 would limit the availability to consumers of an

1           adequate, wholesome, and economical food sup-  
2           ply, taking into account regional and domestic  
3           effects, and such adverse effects are likely to  
4           outweigh the risk posed by the pesticide resi-  
5           due.

6           In making the determination under this subpara-  
7           graph, the Administrator shall not consider the ef-  
8           fects on any pesticide registrant, manufacturer, or  
9           marketer of a pesticide.

10           “(3) LIMITATIONS.—(A) A tolerance may be is-  
11           sued under the authority of paragraph (2)(E) only  
12           if the Administrator has assessed the extent to  
13           which efforts are being made to develop either an al-  
14           ternative method of pest control or an alternative  
15           pesticide chemical for use on such commodity or  
16           food that would meet the requirements of paragraph  
17           (2)(D).

18           “(B) A tolerance for a pesticide chemical resi-  
19           due in or on a food shall not be established by the  
20           Administrator unless the Administrator determines,  
21           after consultation with the Secretary, that there is  
22           a practical method for detecting and measuring the  
23           levels of the pesticide chemical residue in or on the  
24           food.

1           “(C) A tolerance for a pesticide chemical resi-  
2           due in or on a food shall not be established at a level  
3           lower than the limit of detection of the method for  
4           detecting and measuring the pesticide chemical resi-  
5           due specified by the Administrator under subpara-  
6           graph (B).

7           “(4) INTERNATIONAL STANDARDS.—In estab-  
8           lishing a tolerance for a pesticide chemical residue in  
9           or on a food, the Administrator shall take into ac-  
10          count any maximum residue level for the chemical in  
11          or on the food that has been established by the  
12          Codex Alimentarius Commission. The Administrator  
13          shall determine whether the Codex maximum residue  
14          level is adequate to protect the health of United  
15          States’ consumers and whether the data supporting  
16          the maximum residue level are valid, complete, and  
17          reliable. If the Administrator determines not to  
18          adopt a Codex maximum residue level, the Adminis-  
19          trator shall publish a notice in the Federal Register  
20          setting forth the reasons.

21          “(c) AUTHORITY AND STANDARD FOR EXEMP-  
22          TIONS.—

23               “(1) AUTHORITY.—The Administrator may  
24               issue a regulation establishing, modifying, or revok-  
25               ing an exemption from the requirement for a toler-

1       ance for a pesticide chemical residue in or on a  
2       food—

3               “(A) in response to a petition filed under  
4       subsection (d), or

5               “(B) on the Administrator’s initiative  
6       under subsection (e).

7               “(2) STANDARD.—(A) An exemption from the  
8       requirement for a tolerance for a pesticide chemical  
9       residue in or on a food may be established only if  
10      the Administrator determines that a tolerance is not  
11      needed to protect the public health, in view of the  
12      levels of dietary exposure to the pesticide chemical  
13      residue that could reasonably be expected to occur.

14              “(B) An exemption from the requirement for a  
15      tolerance for a pesticide chemical residue in or on a  
16      food shall be revoked if the Administrator, in re-  
17      sponse to a petition for the revocation of the exemp-  
18      tion or at the Administrator’s own initiative deter-  
19      mines that the exemption does not satisfy the cri-  
20      terion of subparagraph (A).

21              “(C) In making a determination under this sub-  
22      paragraph, the Administrator shall take into ac-  
23      count, among other relevant factors, the factors set  
24      forth in subsection (b)(2)(C).



1           “(3) LIMITATION.—An exemption from the re-  
2           quirement for a tolerance for a pesticide chemical  
3           residue in or on a food shall not be established by  
4           the Administrator unless the Administrator deter-  
5           mines, after consultation with the Secretary—

6                   “(A) that there is a practical method for  
7                   detecting and measuring the levels of such pes-  
8                   ticide chemical residue in or on such food; or

9                   “(B) that there is no need for such a  
10                  method, and states the reasons for such deter-  
11                  mination in the order issuing the regulation es-  
12                  tablishing or modifying the regulation.

13          “(d) PETITION FOR TOLERANCE OR EXEMPTION.—

14               “(1) PETITIONS AND PETITIONERS.—Any per-  
15               son may file with the Administrator a petition pro-  
16               posing the issuance of a regulation—

17                   “(A) establishing, modifying, or revoking a  
18                   tolerance for a pesticide chemical residue in or  
19                   on a food, or

20                   “(B) establishing or revoking an exemption  
21                   from the requirement of a tolerance for such a  
22                   residue.

23          “(2) PETITION CONTENTS.—

24               “(A) ESTABLISHMENT.—A petition under  
25               paragraph (1) to establish a tolerance or ex-

1           emption for a pesticide chemical residue shall  
2           be supported by such data and information as  
3           are specified in regulations issued by the Ad-  
4           ministrator, including—

5                   “(i)(I) an informative summary of the  
6                   petition and of the data, information, and  
7                   arguments submitted or cited in support of  
8                   the petition,

9                   “(II) a statement that the petitioner  
10                  agrees that such summary or any informa-  
11                  tion it contains may be published as a part  
12                  of the notice of filing of the petition to be  
13                  published under this subsection and as  
14                  part of a proposed or final regulation is-  
15                  sued under this section,

16                  “(ii) the name, chemical identity, and  
17                  composition of the pesticide chemical resi-  
18                  due and of the pesticide chemical that pro-  
19                  duces the residue,

20                  “(iii) data showing the recommended  
21                  amount, frequency, method, and time of  
22                  application of that pesticide chemical,

23                  “(iv) full reports of tests and inves-  
24                  tigations made with respect to the safety of  
25                  the pesticide chemical, including full infor-

1           mation as to the methods and controls  
2           used in conducting those tests and inves-  
3           tigations,

4           “(v) full reports of tests and inves-  
5           tigations made with respect to the nature  
6           and amount of the pesticide chemical resi-  
7           due that is likely to remain in or on the  
8           food, including a description of the analyt-  
9           ical methods used,

10          “(vi) a practical method for detecting  
11          and measuring the levels of the pesticide  
12          chemical residue in or on the food, or a  
13          statement why such a method is not need-  
14          ed,

15          “(vii) practical methods for removing  
16          any amount of the residue that would ex-  
17          ceed any proposed tolerance,

18          “(viii) a proposed tolerance for the  
19          pesticide chemical residue, if a tolerance is  
20          proposed,

21          “(ix) all relevant data bearing on the  
22          physical or other technical effect that the  
23          pesticide chemical is intended to have and  
24          the quantity of the pesticide chemical that  
25          is required to produce the effect,

1           “(x) if the petition relates to a toler-  
2           ance for a processed food, reports of inves-  
3           tigations conducted using the processing  
4           method(s) used to produce that food,

5           “(xi) such information as the Admin-  
6           istrator may require to make the deter-  
7           mination under subsection (b)(2)(E), and

8           “(xii) such other data and information  
9           as the Administrator requires by regulation  
10          to support the petition.

11         If information or data required by this subpara-  
12         graph is available to the Administrator, the per-  
13         son submitting the petition may cite the avail-  
14         ability of the information or data in lieu of sub-  
15         mitting it. The Administrator may require a pe-  
16         tition to be accompanied by samples of the pes-  
17         ticide chemical with respect to which the peti-  
18         tion is filed.

19                 “(B) MODIFICATION OR REVOCATION.—

20         The Administrator may by regulation establish  
21         the requirements for information and data to  
22         support a petition to modify or revoke a toler-  
23         ance or to revoke an exemption from the re-  
24         quirement for a tolerance.

1           “(3) NOTICE.—A notice of the filing of a peti-  
2           tion that the Administrator determines has met the  
3           requirements of paragraph (2) shall be published by  
4           the Administrator within 30 days after such deter-  
5           mination. The notice shall announce the availability  
6           of a description of the analytical methods available  
7           to the Administrator for the detection and measure-  
8           ment of the pesticide chemical residue with respect  
9           to which the petition is filed or shall set forth the  
10          petitioner’s statement of why such a method is not  
11          needed. The notice shall include the summary re-  
12          quired by paragraph (2)(A)(i).

13          “(4) ACTIONS BY THE ADMINISTRATOR.—The  
14          Administrator shall, after giving due consideration  
15          to a petition filed under paragraph (1) and any  
16          other information available to the Administrator—

17                 “(A) issue a final regulation (which may  
18                 vary from that sought by the petition) estab-  
19                 lishing, modifying, or revoking a tolerance for  
20                 the pesticide chemical residue or an exemption  
21                 of the pesticide chemical residue from the re-  
22                 quirement of a tolerance;

23                 “(B) issue a proposed regulation under  
24                 subsection (e), and thereafter either issue a

1 final regulation under subsection (e) or an  
2 order denying the petition; or

3 “(C) issue an order denying the petition.

4 “(5) EFFECTIVE DATE.—A regulation issued  
5 under paragraph (4) shall take effect upon publica-  
6 tion.

7 “(6) FURTHER PROCEEDINGS.—

8 “(A) Within 60 days after a regulation or  
9 order is issued under paragraph (4), subsection  
10 (e)(1), or subsection (f)(1), any person may file  
11 objections thereto with the Administrator, speci-  
12 fying with particularity the provisions of the  
13 regulation or order deemed objectionable and  
14 stating reasonable grounds therefor. If the reg-  
15 ulation or order was issued in response to a pe-  
16 tition under paragraph (d)(1), a copy of each  
17 objection filed by a person other than the peti-  
18 tioner shall be served by the Administrator on  
19 the petitioner.

20 “(B) An objection may include a request  
21 for a public evidentiary hearing upon the objec-  
22 tion. The Administrator shall, upon the initia-  
23 tive of the Administrator or upon the request of  
24 an interested person and after due notice, hold  
25 a public evidentiary hearing if and to the extent

1 the Administrator determines that such a public  
2 hearing is necessary to receive factual evidence  
3 relevant to material issues of fact raised by the  
4 objections. The presiding officer in such a hear-  
5 ing may authorize a party to obtain discovery  
6 from other persons and may upon a showing of  
7 good cause made by a party issue a subpoena  
8 to compel testimony or production of documents  
9 from any person. The presiding officer shall be  
10 governed by the Federal Rules of Civil Proce-  
11 dure in making any order for the protection of  
12 the witness or the content of documents pro-  
13 duced and shall order the payment of reason-  
14 able fees and expenses as a condition to requir-  
15 ing testimony of the witness. On contest, such  
16 a subpoena may be enforced by a Federal dis-  
17 trict court.

18 “(C) As soon as practicable after receiving  
19 the arguments of the parties, the Administrator  
20 shall issue an order stating the action taken  
21 upon each such objection and setting forth any  
22 revision to the regulation or prior order that the  
23 Administrator has found to be warranted. If a  
24 hearing was held under subparagraph (B), such  
25 order and any revision to the regulation or prior

1           order shall, with respect to questions of fact at  
2           issue in the hearing, be based only on substan-  
3           tial evidence of record at such hearing, and  
4           shall set forth in detail the findings of facts and  
5           the conclusions of law or policy upon which the  
6           order or regulation is based.

7           “(D) An order issued under this paragraph  
8           ruling on an objection shall not take effect be-  
9           fore the 90th day after its publication unless  
10          the Administrator finds that emergency condi-  
11          tions exist necessitating an earlier effective  
12          date, in which event the Administrator shall  
13          specify in the order the Administrator’s find-  
14          ings as to such conditions.

15          “(7) JUDICIAL REVIEW.—(A) In a case of ac-  
16          tual controversy as to the validity of any order is-  
17          sued under paragraph (6) or any regulation that is  
18          the subject of such an order, any person who will be  
19          adversely affected by such order or regulation may  
20          obtain judicial review by filing in the United States  
21          Court of Appeals for the circuit wherein that person  
22          resides or has its principal place of business, or in  
23          the United States Court of Appeals for the District  
24          of Columbia Circuit, within 60 days after publication



1 of such order, a petition praying that the order or  
2 regulation be set aside in whole or in part.

3 “(B) A copy of the petition shall be forthwith  
4 transmitted by the clerk of the court to the Adminis-  
5 trator, or any officer designated by the Adminis-  
6 trator for that purpose, and thereupon the Adminis-  
7 trator shall file in the court the record of the pro-  
8 ceedings on which the Administrator based the order  
9 or regulation, as provided in section 2112 of title 28,  
10 United States Code. Upon the filing of such a peti-  
11 tion, the court shall have exclusive jurisdiction to af-  
12 firm or set aside the order or regulation complained  
13 of in whole or in part. The findings of the Adminis-  
14 trator with respect to questions of fact shall be sus-  
15 tained only if supported by substantial evidence  
16 when considered on the record as a whole.

17 “(C) If a party applies to the court for leave to  
18 adduce additional evidence, and shows to the satis-  
19 faction of the court that the additional evidence is  
20 material and that there were reasonable grounds for  
21 the failure to adduce the evidence in the proceeding  
22 before the Administrator, the court may order that  
23 the additional evidence (and evidence in rebuttal  
24 thereof) shall be taken before the Administrator in  
25 the manner and upon the terms and conditions the

1 court deems proper. The Administrator may modify  
2 prior findings as to the facts by reason of the addi-  
3 tional evidence so taken and may modify the order  
4 or regulation accordingly. The Administrator shall  
5 file with the court any such modified finding, order,  
6 or regulation.

7 “(D) The judgment of the court affirming or  
8 setting aside, in whole or in part, any order under  
9 paragraph (6) and any regulation which is the sub-  
10 ject of such an order shall be final, subject to review  
11 by the Supreme Court of the United States as pro-  
12 vided in section 1254 of title 28 of the United States  
13 Code. The commencement of proceedings under this  
14 paragraph shall not, unless specifically ordered by  
15 the court to the contrary, operate as a stay of a reg-  
16 ulation or order.

17 “(E) Any issue as to which review is or was ob-  
18 tainable under paragraph (6) and this paragraph  
19 shall not be the subject of judicial review under any  
20 other provision of law.

21 “(e) ACTION ON ADMINISTRATOR’S OWN INITIA-  
22 TIVE.—

23 “(1) GENERAL RULE.—The Administrator may  
24 issue a regulation—

1           “(A) establishing, modifying, or revoking a  
2           tolerance for a pesticide chemical or a pesticide  
3           chemical residue,

4           “(B) establishing or revoking an exemption  
5           of a pesticide chemical residue from the require-  
6           ment of a tolerance, or

7           “(C) establishing general procedures and  
8           requirements to implement this section.

9           A regulation issued under this paragraph shall be-  
10          come effective upon its publication.

11          “(2) NOTICE.—Before issuing a final regulation  
12          under paragraph (1), the Administrator shall issue  
13          a notice of proposed rulemaking and provide a pe-  
14          riod of not less than 60 days for public comment on  
15          the proposed regulation, except that a shorter period  
16          for comment may be provided if the Administrator  
17          for good cause finds that it would be contrary to the  
18          public interest to do so and states the reasons for  
19          the finding in the notice of proposed rulemaking.  
20          The Administrator shall provide an opportunity for  
21          a public hearing during the rulemaking under proce-  
22          dures provided in subsection (d)(6)(B).

23          “(f) SPECIAL DATA REQUIREMENTS.—

24          “(1) REQUIRING SUBMISSION OF ADDITIONAL  
25          DATA.—If the Administrator determines that addi-

1        tional data or information are reasonably required to  
2        support the continuation of a tolerance or exemption  
3        that is in effect under this section for a pesticide  
4        chemical residue on a food, the Administrator  
5        shall—

6                “(A) issue a notice requiring the persons  
7                holding the pesticide registrations associated  
8                with such tolerance or exemption to submit the  
9                data or information under section 3(c)(2)(B) of  
10              the Federal Insecticide, Fungicide, and  
11              Rodenticide Act,

12              “(B) issue a rule requiring that testing be  
13              conducted on a substance or mixture under sec-  
14              tion 4 of the Toxic Substances Control Act, or

15              “(C) publish in the Federal Register, after  
16              first providing notice and an opportunity for  
17              comment of not less than 90 days’ duration, an  
18              order—

19                      “(i) requiring the submission to the  
20                      Administrator by one or more interested  
21                      persons of a notice identifying the person  
22                      or persons who will submit the required  
23                      data and information,

24                      “(ii) describing the type of data and  
25                      information required to be submitted to

1 the Administrator and stating why the  
2 data and information could not be obtained  
3 under the authority of section 3(c)(2)(B)  
4 of the Federal Insecticide, Fungicide, and  
5 Rodenticide Act or section 4 of the Toxic  
6 Substances Control Act,

7 “(iii) describing the reports to the Ad-  
8 ministrator required to be prepared during  
9 and after the collection of the data and in-  
10 formation,

11 “(iv) requiring the submission to the  
12 Administrator of the data, information,  
13 and reports referred to in clauses (ii) and  
14 (iii), and

15 “(v) establishing dates by which the  
16 submissions described in clauses (i) and  
17 (iv) must be made.

18 The Administrator may revise any such order to cor-  
19 rect an error.

20 “(2) NONCOMPLIANCE.—If a submission re-  
21 quired by a notice issued in accordance with para-  
22 graph (1)(A) or an order issued under paragraph  
23 (1)(B) is not made by the time specified in such no-  
24 tice or order, the Administrator may by order pub-

1 lished in the Federal Register modify or revoke the  
2 tolerance or exemption in question.

3 “(3) REVIEW.—An order issued under this sub-  
4 section shall be effective upon publication and shall  
5 be subject to review in accordance with paragraphs  
6 (6) and (7) of subsection (d).

7 “(g) CONFIDENTIALITY AND USE OF DATA.—

8 “(1) GENERAL RULE.—Data and information  
9 that are submitted to the Administrator under this  
10 section in support of a tolerance shall be entitled to  
11 confidential treatment for reasons of business con-  
12 fidentiality and to exclusive use and data compensa-  
13 tion, to the same extent provided by sections 3 and  
14 10 of the Federal Insecticide, Fungicide and  
15 Rodenticide Act.

16 “(2) EXCEPTIONS.—Data that are entitled to  
17 confidential treatment under paragraph (1) may  
18 nonetheless be disclosed to the Congress of the Unit-  
19 ed States, and may be disclosed, under such security  
20 requirements as the Administrator may provide by  
21 regulation, to—

22 “(A) employees of the United States au-  
23 thorized by the Administrator to examine such  
24 data in the carrying out of their official duties

1 under this Act or other Federal statutes in-  
2 tended to protect the public health, or

3 “(B) contractors with the United States  
4 authorized by the Administrator to examine  
5 such data in the carrying out of contracts under  
6 such statutes.

7 “(3) SUMMARIES.—Notwithstanding any provi-  
8 sion of this subsection or other law, the Adminis-  
9 trator may publish the informative summary re-  
10 quired by subsection (d)(2)(A)(i) and may, in issu-  
11 ing a proposed or final regulation or order under  
12 this section, publish an informative summary of the  
13 data relating to the regulation or order.

14 “(h) STATUS OF PREVIOUSLY ISSUED REGULA-  
15 TIONS.—

16 “(1) REGULATIONS UNDER SECTION 406.—Reg-  
17 ulations affecting pesticide chemical residues in or  
18 on raw agricultural commodities promulgated, in ac-  
19 cordance with section 701(e), under the authority of  
20 section 406(a) upon the basis of public hearings in-  
21 stituted before January 1, 1953, shall be deemed to  
22 be regulations issued under this section and shall be  
23 subject to modification or revocation under sub-  
24 sections (d) and (e).

1           “(2) REGULATIONS UNDER SECTION 409.—Reg-  
2           ulations that established tolerances for substances  
3           that are pesticide chemical residues on or in proc-  
4           essed food, or that otherwise stated the conditions  
5           under which such pesticide chemicals could be safely  
6           used, and that were issued under section 409 on or  
7           before the date of the enactment of this paragraph,  
8           shall be deemed to be regulations issued under this  
9           section and shall be subject to modification or rev-  
10          ocation under subsection (d) or (e).

11          “(3) REGULATIONS UNDER SECTION 408.—Reg-  
12          ulations that established tolerances or exemptions  
13          under this section that were issued on or before the  
14          date of the enactment of this paragraph shall remain  
15          in effect unless modified or revoked under subsection  
16          (d) or (e).

17          “(i) TRANSITIONAL PROVISION.—If, on the day be-  
18          fore the date of the enactment of this subsection, a sub-  
19          stance that is a pesticide chemical was, with respect to  
20          a particular pesticidal use of the substance and any result-  
21          ing pesticide chemical residue in or on a particular food—

22               “(1) regarded by the Administrator or the Sec-  
23          retary as generally recognized as safe for use within  
24          the meaning of the provisions of section 408(a) or  
25          201(s) as then in effect, or



1           “(2) regarded by the Secretary as a substance  
2       described by section 201(s)(4),  
3       such a pesticide chemical residue shall be regarded as ex-  
4       empt from the requirement for a tolerance, as of the date  
5       of enactment of this subsection. The Administrator shall  
6       by regulation indicate which substances are described by  
7       this subsection. An exemption under this subsection may  
8       be revoked or modified as if it had been issued under sub-  
9       section (c).

10       “(j) HARMONIZATION WITH ACTION UNDER OTHER  
11       LAWS.—

12           “(1) LIMITATION.—Notwithstanding any other  
13       provision of this Act, a final rule under this section  
14       that revokes, modifies, or suspends a tolerance or  
15       exemption for a pesticide chemical residue in or on  
16       a food may be issued only if the Administrator has  
17       first taken any necessary action under the Federal  
18       Insecticide, Fungicide, and Rodenticide Act with re-  
19       spect to the registration of the pesticide(s) whose  
20       use results in such residue to ensure that any au-  
21       thorized use of the pesticide in producing, storing,  
22       processing, or transporting food that occurs after  
23       the issuance of such final rule under this section will  
24       not result in pesticide chemical residues on such

1 food that are unsafe within the meaning of sub-  
2 section (a).

3 “(2) REVOCATION OF TOLERANCE OR EXEMP-  
4 TION FOLLOWING CANCELLATION OF ASSOCIATED  
5 REGISTRATIONS.—If the Administrator, acting under  
6 the Federal Insecticide, Fungicide, and Rodenticide  
7 Act, cancels the registration of each pesticide that  
8 contains a particular pesticide chemical and that is  
9 labeled for use on a particular food, or requires that  
10 the registration of each such pesticide be modified to  
11 prohibit its use in connection with the production,  
12 storage, or transportation of such food, due in whole  
13 or in part to dietary risks to humans posed by resi-  
14 dues of that pesticide chemical on that food, the Ad-  
15 ministrator shall revoke any tolerance or exemption  
16 that allows the presence of the pesticide chemical, or  
17 any pesticide chemical residue that results from its  
18 use, in or on that food. The Administrator shall use  
19 the procedures set forth in subsection (e) in taking  
20 action under this paragraph. A revocation under this  
21 paragraph shall become effective not later than 180  
22 days after—

23 “(A) the date by which each such cancella-  
24 tion of a registration has become effective, or

1           “(B) the date on which the use of the can-  
2           celed pesticide becomes unlawful under the  
3           terms of the cancellation, whichever is later.

4           “(3) SUSPENSION OF TOLERANCE OR EXEMP-  
5           TION FOLLOWING SUSPENSION OF ASSOCIATED REG-  
6           ISTRATIONS.—

7           “(A) SUSPENSION.—If the Administrator,  
8           acting under the Federal Insecticide, Fungicide,  
9           and Rodenticide Act, suspends the use of each  
10          registered pesticide that contains a particular  
11          pesticide chemical and that is labeled for use on  
12          a particular food, due in whole or in part to die-  
13          tary risks to humans posed by residues of that  
14          pesticide chemical on that food, the Adminis-  
15          trator shall suspend any tolerance or exemption  
16          that allows the presence of the pesticide chemi-  
17          cal, or any pesticide chemical residue that re-  
18          sults from its use, in or on that food. The Ad-  
19          ministrator shall use the procedures set forth in  
20          subsection (e) in taking action under this para-  
21          graph. A suspension under this paragraph shall  
22          become effective not later than 60 days after  
23          the date by which each such suspension of use  
24          has become effective.

1           “(B) EFFECT OF SUSPENSION.—The sus-  
2           pension of a tolerance or exemption under sub-  
3           paragraph (A) shall be effective as long as the  
4           use of each associated registration of a pesticide  
5           is suspended under the Federal Insecticide,  
6           Fungicide, and Rodenticide Act. While a sus-  
7           pension of a tolerance or exemption is effective  
8           the tolerance or exemption shall not be consid-  
9           ered to be in effect. If the suspension of use of  
10          the pesticide under that Act is terminated, leav-  
11          ing the registration of the pesticide for such use  
12          in effect under that Act, the Administrator  
13          shall rescind any associated suspension of a tol-  
14          erance or exemption.

15          “(4) TOLERANCES FOR UNAVOIDABLE RESI-  
16          DUES.—In connection with action taken under para-  
17          graph (2) or (3), or with respect to pesticides whose  
18          registrations were canceled prior to the effective date  
19          of this paragraph, if the Administrator determines  
20          that a residue of the canceled or suspended pesticide  
21          chemical will unavoidably persist in the environment  
22          and thereby be present in or on a food, the Adminis-  
23          trator may establish a tolerance for the pesticide  
24          chemical residue at a level that permits such un-  
25          avoidable residue to remain in such food. In estab-

1       lishing such a tolerance, the Administrator shall  
2       take into account the factors set forth in subsection  
3       (b)(2)(A)(iii) and shall use the procedures set forth  
4       in subsection (e). The Administrator shall review  
5       any such tolerance periodically and modify it as nec-  
6       essary so that it allows only that level of the pes-  
7       ticide chemical residue that is unavoidable.

8               “(5) PESTICIDE RESIDUES RESULTING FROM  
9       LAWFUL APPLICATION OF PESTICIDE.—Notwith-  
10       standing any other provision of this Act, if a toler-  
11       ance or exemption for a pesticide chemical residue in  
12       or on a food has been revoked, suspended, or modi-  
13       fied under this section, an article of that food shall  
14       not be deemed unsafe solely because of the presence  
15       of such pesticide chemical residue in or on such food  
16       if it is shown to the satisfaction of the Secretary  
17       that—

18               “(A) the residue is present as the result of  
19       an application or use of a pesticide at a time  
20       and in a manner that was lawful under the  
21       Federal Insecticide, Fungicide, and Rodenticide  
22       Act; and

23               “(B) the residue does not exceed a level  
24       that was authorized at the time of that applica-  
25       tion or use to be present on the food under a

1 tolerance, exemption, food additive regulation,  
2 or other sanction then in effect under this Act;  
3 unless, in the case of any tolerance or exemption re-  
4 voked, suspended, or modified under this subsection  
5 or subsection (d) or (e), the Administrator has is-  
6 sued a determination that consumption of the legally  
7 treated food during the period of its likely availabil-  
8 ity in commerce will pose an unreasonable dietary  
9 risk.

10 “(k) FEES.—The Administrator shall by regulation  
11 require the payment of such fees as will in the aggregate,  
12 in the judgment of the Administrator, be sufficient over  
13 a reasonable term to provide, equip, and maintain an ade-  
14 quate service for the performance of the Administrator’s  
15 functions under this section. Under the regulations, the  
16 performance of the Administrator’s services or other func-  
17 tions under this section, including—

18 “(1) the acceptance for filing of a petition sub-  
19 mitted under subsection (d),

20 “(2) the promulgation of a regulation establish-  
21 ing, modifying, or revoking a tolerance or establish-  
22 ing or revoking an exemption from the requirement  
23 of a tolerance under this section,

24 “(3) the acceptance for filing of objections  
25 under subsection (d)(6), or

1           “(4) the certification and filing in court of a  
2       transcript of the proceedings and the record under  
3       subsection (d)(7),

4       may be conditioned upon the payment of such fees. The  
5       regulations may further provide for waiver or refund of  
6       fees in whole or in part when in the judgment of the Ad-  
7       ministrators such a waiver or refund is equitable and not  
8       contrary to the purposes of this subsection.

9       “(l) NATIONAL UNIFORMITY OF TOLERANCES.—

10           “(1) QUALIFYING PESTICIDE CHEMICAL RESI-  
11       DUE.—For purposes of this subsection, the term  
12       ‘qualifying pesticide chemical residue’ means a pes-  
13       ticide chemical residue resulting from the use, in  
14       production, processing, or storage of a food, of a  
15       pesticide chemical that is an active ingredient and  
16       that—

17           “(A) was first approved for such use in a  
18       registration of a pesticide issued under section  
19       3(c)(5) of the Federal Insecticide, Fungicide,  
20       Rodenticide Act on or after April 25, 1985, on  
21       the basis of data determined by the Adminis-  
22       trator to meet all applicable requirements for  
23       data prescribed by regulations in effect under  
24       that Act on April 25, 1985; or

1           “(B) was approved for such use in a rereg-  
2           istration eligibility determination issued under  
3           section 4(g) of that Act on or after the date of  
4           enactment of the Food Quality Protection Act  
5           of 1993.

6           “(2) QUALIFYING FEDERAL DETERMINATION.—  
7           For purposes of this subsection, the term ‘qualifying  
8           Federal determination’ means—

9           “(A) a tolerance or exemption from the re-  
10          quirement for a tolerance for a qualifying pes-  
11          ticide chemical residue that was—

12               “(i) issued under this section after the  
13               date of enactment of the Food Quality  
14               Protection Act of 1993;

15               “(ii) issued (or, pursuant to sub-  
16               section (h) or (i), deemed to have been is-  
17               sued) under this section, and determined  
18               by the Administrator to meet the standard  
19               under subsection (b)(2) (in the case of a  
20               tolerance) or (c)(2) (in the case of an ex-  
21               emption); and

22               “(B) any statement, issued by the Sec-  
23               retary, of the residue level below which enforce-  
24               ment action will not be taken under this Act  
25               with respect to any qualifying pesticide chemi-



1           cal residue, if the Secretary finds that such pes-  
2           ticide chemical residue level permitted by such  
3           statement during the period to which such  
4           statement applies protects human health.

5           “(3) LIMITATION.—The Administrator may  
6           make the determination described in paragraph  
7           (2)(A)(ii) only by issuing a rule in accordance with  
8           the procedure set forth in subsection (d) or (e) and  
9           only if the Administrator issues a proposed rule and  
10          allows a period of not less than 30 days for comment  
11          on the proposed rule. Any such rule shall be  
12          reviewable in accordance with subsections (d)(6) and  
13          (d)(7).

14          “(4) STATE AUTHORITY.—Except as provided  
15          in paragraph (5), no State or political subdivision  
16          may establish or enforce any regulatory limit on a  
17          qualifying pesticide chemical residue in or on any  
18          food if a qualifying Federal determination applies to  
19          the presence of such pesticide chemical residue in or  
20          on such food, unless such State regulatory limit is  
21          identical to such qualifying Federal determination. A  
22          State or political subdivision shall be deemed to es-  
23          tablish or enforce a regulatory limit on a pesticide  
24          chemical residue in or on food if it purports to pro-  
25          hibit or penalize the production, processing, ship-

1       ping, or other handling of a food because it contains  
2       a pesticide residue (in excess of a prescribed limit),  
3       or if it purports to require that a food containing a  
4       pesticide residue be the subject of a warning or  
5       other statement relating to the presence of the pes-  
6       ticide residue in the food.

7               “(5) PETITION PROCEDURE.—

8               “(A) Any State may petition the Adminis-  
9       trator for authorization to establish in such  
10       State a regulatory limit on a qualifying pes-  
11       ticide chemical residue in or on any food that  
12       is not identical to the qualifying Federal deter-  
13       mination applicable to such qualifying pesticide  
14       chemical residue.

15              “(B) Any petition under subparagraph (A)  
16       shall—

17                   “(i) satisfy any requirements pre-  
18       scribed, by rule, by the Administrator; and

19                   “(ii) be supported by scientific data  
20       about the pesticide chemical residue that is  
21       the subject of the petition or about chemi-  
22       cally related pesticide chemical residues,  
23       data on the consumption within such State  
24       of food bearing the pesticide chemical resi-  
25       due, and data on exposure of humans with-

1 in such State to the pesticide chemical res-  
2 idue.

3 “(C) Subject to paragraph (6), the Admin-  
4 istrator may, by order, grant the authorization  
5 described in subparagraph (A) if the Adminis-  
6 trator determines that the proposed State regu-  
7 latory limit—

8 “(i) is justified by compelling local  
9 conditions;

10 “(ii) would not unduly burden inter-  
11 state commerce; and

12 “(iii) would not cause any food to be  
13 in violation of Federal law.

14 “(D) In lieu of any action authorized  
15 under subparagraph (C), the Administrator  
16 may treat a petition under this paragraph as a  
17 petition under subsection (d) to revoke or mod-  
18 ify a tolerance or to revoke an exemption. If the  
19 Administrator determines to treat a petition  
20 under this paragraph as a petition under sub-  
21 section (d), the Administrator shall thereafter  
22 act on the petition pursuant to subsection (d).

23 “(E) Any order of the Administrator  
24 granting or denying the authorization described  
25 in subparagraph (A) shall be subject to review

1 in the manner described in subsections (d)(6)  
 2 and (d)(7).

3 “(6) RESIDUES FROM LAWFUL APPLICATION.—

4 No State or political subdivision may enforce any  
 5 regulatory limit on the level of a pesticide chemical  
 6 residue that may appear in or on any food if, at the  
 7 time of the application of the pesticide that resulted  
 8 in such residue, the sale of such food with such resi-  
 9 due level was lawful under this Act and under the  
 10 law of such State, unless the State demonstrates  
 11 that consumption of the food containing such pes-  
 12 ticide residue level during the period of the food’s  
 13 likely availability in the State will pose an unreason-  
 14 able dietary risk to the health of persons within such  
 15 State.”.

16 **SEC. 306. AUTHORIZATION FOR INCREASE MONITORING.**

17 There is authorized to be appropriated an additional  
 18 \$12,000,000 for increased monitoring by the Secretary of  
 19 Health and Human Services of pesticide residues in im-  
 20 ported and domestic food.

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